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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,888	02/16/2005	Fritz Alfons Rueb	SMB-PT113 (PC 03 293 M US	5893
3624	7590	05/10/2007	EXAMINER	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	
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			05/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/524,888	Applicant(s) RUEB, FRITZ ALFONS	
	Examiner Mark Spisich	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Comment RE Claim 5

It is pointed out that the preliminary amendment deleted all references to the prior claims. It has been assumed, for examination purposes, that claim 5 is dependent on claim 1.

Claim Rejections - 35 USC § 112

1. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In general, the claims are characterized by so many instances of alternative language as to make the scope thereof difficult to determine. The use of the phrase "and/or" (claim 1, line 1) is inappropriate in that it would be impossible for the array to be both rectangular and round at the same time. Some of the other instances are also questionable. For example, line 5 of claim 1. Some of the tufts are described as being at least partially beveled or in the form of a "roof shape". This would seem to be more of an alternative shape and it is questioned how AND is appropriate in this instance. It would seem that line 5 of claim 4 contradicts claim 1 (which stated that the angle was other than 90 and 180 degrees). Also, the use of "and/or" in claim 4, line 5 is questioned here as well as two things cannot be oriented at two different angles at the same time. The preamble of claim 7, being that claim 1 never positively recited the round or circular array, is not consistent with claim 1. "Said one of the rows' (claim 14, line 5) lacks antecedent.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Underwood et al (USP 6,035,476). The patent to Underwood discloses (with particular reference to figures 6 and 9) a toothbrush comprising a body (110) as well as a plurality of tufts the free ends of which are all beveled (some of which define plural beveled surfaces). Any two of the tufts (eg, #132 in row 115 and #140 in column 107) could be said to have their beveled surfaces oriented with respect to each other and to the imaginary line. Note that the imaginary line could easily be located at any location that intersected to two tufts.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Underwood et al (USP 6,035,476) in view of Carlucci et al (USP 6,735,804). The modification of the head shape and the addition of other tufts or non-circular cross-

section as well as the addition of equal-length tufts is taught by Carlucci and would be obvious to one of ordinary skill as being an art-recognized tuft arrangement.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are pertinent to beveled tufts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

~~Mark Spisich~~


MARK SPISICH
PRIMARY EXAMINER
GROUP-3400
1700